

REFERENCE TITLE: initiative reform; statutory measures

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2624

Introduced by
Representatives Sinema, Campbell CH, Reagan: Biggs, Campbell CL, Driggs,
Meza

AN ACT

AMENDING SECTIONS 19-101 AND 19-102, ARIZONA REVISED STATUTES; AMENDING TITLE 19, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-111.01; AMENDING SECTION 19-118, ARIZONA REVISED STATUTES; AMENDING TITLE 19, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-120; AMENDING SECTION 19-121.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 244, SECTION 3; REPEALING SECTION 19-121.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 273, SECTION 27; AMENDING SECTION 19-124, ARIZONA REVISED STATUTES; RELATING TO INITIATIVE, REFERENDUM AND RECALL; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 19-101, Arizona Revised Statutes, is amended to read:

19-101. Referendum petition; circulators; violation; classification

A. The following shall be the form for referring to the people by referendum petition a measure or item, section or part of a measure enacted by the legislature, or by the legislative body of an incorporated city, town or county:

Referendum Description

(Insert a description of no more than one hundred words of the principal provisions of the measure sought to be referred.)

Notice: This is only a description of the measure sought to be referred prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing.

Petition for Referendum

To the secretary of state~~+~~ (or to the corresponding officer for or on local, county, city or town measures):

We, the undersigned citizens and qualified electors of the state of Arizona, respectfully order that the senate (or house) bill No. ____ (or other local, county, city or town measure) entitled (title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the _____ session of the legislature of the state of Arizona, at the general (or special, as the case may be) session of said legislature, (or by a county, city or town legislative body) shall be referred to a vote of the qualified electors of the state, (county, city or town) for their approval or rejection at the next regular general election (or county, city or town election) and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of (or city or town and county of, as the case may be)

_____.

~~---~~Warning

It is a class 1 misdemeanor for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical

1 infirmity, or to knowingly sign his name more than once for the
 2 same measure, or to knowingly sign such petition when he is not
 3 a qualified elector."

4	Signature	Name	Actual	Arizona	City or	Date
5		(first and	address	post office	town	signed
6		last name	(street &	address	(if any)	
7		printed)	no. and if	& zip		
8			no street	code		
9			address,			
10			describe			
11			residence			
12			location)			

13 (Fifteen lines for signatures which shall be numbered)
 14 The validity of signatures on this sheet must be sworn to
 15 by the circulator before a notary public on the form appearing
 16 on the back of the sheet.

17 Number _____
 18 B. Each petition sheet shall have printed in capital letters in no
 19 less than twelve point bold-faced type in the upper right-hand corner of the
 20 face of the petition sheet the following:

21 "_____ paid circulator" "_____ volunteer".
 22 C. A circulator of a referendum petition shall state whether he is a
 23 paid circulator or volunteer by checking the appropriate line on the petition
 24 form before circulating the petition for signatures. A CIRCULATOR MAY NOT BE
 25 PAID FOR COLLECTING SIGNATURES OR CIRCULATING PETITIONS IF THAT PAYMENT IS
 26 BASED ON THE NUMBER OF SIGNATURES COLLECTED OR THE NUMBER OF PETITIONS
 27 CIRCULATED.

28 D. Signatures obtained on referendum petitions in violation of
 29 subsection C are void and shall not be counted in determining the legal
 30 sufficiency of the petition. The presence of signatures that are invalidated
 31 under this subsection on a petition does not invalidate other signatures on
 32 the petition that were obtained as prescribed by this section.

33 Sec. 2. Section 19-102, Arizona Revised Statutes, is amended to read:
 34 19-102. Initiative petition; circulators

35 A. The form of petition for a law or amendment to the constitution of
 36 this state or county legislative measure, or city or town ordinance, or
 37 amendment to a city or town charter proposed by the initiative to be
 38 submitted directly to the electors, shall be substantially in the form
 39 prescribed in section 19-101, except that the title and body of such petition
 40 shall read:

41 Initiative description
 42 (Insert a description of no more than one hundred words of
 43 the principal provisions of the proposed measure or
 44 constitutional amendment.)

1 Notice: This is only a description of the proposed measure (or
2 constitutional amendment) prepared by the sponsor of the measure. It may not
3 include every provision contained in the measure. Before signing, make sure
4 the title and text of the measure are attached. You have the right to read
5 or examine the title and text before signing.

6 Initiative Measure to be Submitted Directly to Electors

7 We, the undersigned, citizens and qualified electors of
8 the state of Arizona, respectfully demand that the following
9 proposed law (or amendment to the constitution, or other
10 initiative measure), shall be submitted to the qualified
11 electors of the state of Arizona (county, city or town of
12 _____) for their approval or rejection at the next
13 regular general election (or county, city or town election) and
14 each for himself says: (terminate form same as a referendum
15 petition.)

16 B. Each petition sheet shall have printed in capital letters in no
17 less than twelve point bold-faced type in the upper right-hand corner of the
18 face of the petition sheet the following:

19 "_____ paid circulator" "_____ volunteer".

20 C. A circulator of an initiative petition shall state whether he is a
21 paid circulator or volunteer by checking the appropriate line on the petition
22 form before circulating the petition for signatures. A CIRCULATOR MAY NOT BE
23 PAID FOR COLLECTING SIGNATURES OR CIRCULATING PETITIONS IF THAT PAYMENT IS
24 BASED ON THE NUMBER OF SIGNATURES COLLECTED OR THE NUMBER OF PETITIONS
25 CIRCULATED.

26 D. Signatures obtained on initiative petitions in violation of
27 subsection C of this section are void and shall not be counted in determining
28 the legal sufficiency of the petition. The presence of signatures that are
29 invalidated under this subsection on a petition does not invalidate other
30 signatures on the petition that were obtained as prescribed by this section.

31 Sec. 3. Title 19, chapter 1, article 2, Arizona Revised Statutes, is
32 amended by adding section 19-111.01, to read:

33 19-111.01. Text review; legislature; hearing; recommendations;
34 official title

35 A. A PERSON OR ORGANIZATION THAT HAS FILED AN APPLICATION WITH THE
36 SECRETARY OF STATE PURSUANT TO SECTION 19-111 INTENDING TO PROPOSE A LAW OR
37 CONSTITUTIONAL AMENDMENT BY INITIATIVE PETITION SHALL SUBMIT A COPY OF THE
38 TEXT OF THE PROPOSED LAW OR CONSTITUTIONAL AMENDMENT TO THE LEGISLATURE ON OR
39 BEFORE DECEMBER 31 IN THE YEAR PRECEDING THE ELECTION AND BEFORE PETITION
40 SIGNATURES ARE FILED IN THE OFFICE OF THE SECRETARY OF STATE AS PRESCRIBED BY
41 SECTION 19-121.

42 B. ON RECEIPT OF THE TEXT OF THE MEASURE, THE LEGISLATURE ON OR BEFORE
43 APRIL 15 AFTER SUBMITTAL OF THE APPLICATION SHALL HOLD A PUBLIC HEARING ON
44 THE MEASURE TO TAKE TESTIMONY AND CONSIDER OTHER INFORMATION ON THE PROPOSED
45 MEASURE, INCLUDING THE EFFECT OF THE MEASURE ON EXISTING LAW, ERRORS IN THE

1 DRAFTING OF THE MEASURE, CONFUSING, CONFLICTING OR INCONSISTENT PROVISIONS
2 WITHIN THE MEASURE AND CONFLICTS WITH OTHER STATE AND FEDERAL LAWS.

3 C. ON COMPLETION OF THE HEARING, THE LEGISLATURE SHALL CONSIDER AND
4 MAY PREPARE RECOMMENDATIONS TO IMPROVE THE TEXT OF THE PROPOSED MEASURE.

5 D. THE STAFF OF THE LEGISLATIVE COUNCIL SHALL ESTABLISH THE OFFICIAL
6 TITLE FOR THE MEASURE, WHICH SHALL BE USED EITHER WITH OR WITHOUT THE NUMERIC
7 DESIGNATION GIVEN TO THE MEASURE BY THE SECRETARY OF STATE PURSUANT TO
8 SECTION 19-125.

9 E. THE PERSON OR ORGANIZATION PROPOSING THE LAW OR CONSTITUTIONAL
10 AMENDMENT MAY ACCEPT, MODIFY OR REJECT ANY RECOMMENDATIONS MADE BY THE
11 LEGISLATURE, AND MAY FILE AN APPLICATION TO CIRCULATE A NEW MEASURE WITH NEW
12 TEXT, SOLELY IN ITS DISCRETION. THE PERSON OR ORGANIZATION MAY NOT MODIFY OR
13 REJECT THE OFFICIAL TITLE OF THE MEASURE.

14 Sec. 4. Section 19-118, Arizona Revised Statutes, is amended to read:

15 19-118. Definition of paid circulator

16 For the purposes of this title, "paid circulator":

17 1. Means a natural person who receives monetary or other compensation
18 ~~that is based on the number of signatures obtained on a petition or on the~~
19 ~~number of petitions circulated that contain signatures~~ FOR COLLECTING
20 SIGNATURES OR CIRCULATING PETITIONS.

21 2. Does not include a paid employee of any political committee
22 organized pursuant to title 16, chapter 6, unless that employee's primary
23 responsibility is circulating petitions to obtain signatures.

24 Sec. 5. Title 19, chapter 1, article 2, Arizona Revised Statutes, is
25 amended by adding section 19-120, to read:

26 19-120. Registration of paid signature collectors; fee; penalty

27 A. A PERSON OR ENTITY THAT RECEIVES PAYMENT FOR COLLECTING SIGNATURES
28 ON INITIATIVE, REFERENDUM OR RECALL PETITIONS THAT ARE CIRCULATED PURSUANT TO
29 THIS TITLE SHALL REGISTER WITH THE SECRETARY OF STATE. THE SECRETARY OF
30 STATE SHALL REQUIRE THE FULL LEGAL NAME AND ADDRESS OF THE PERSON OR ENTITY,
31 THE DATE AND PLACE OF INCORPORATION, IF ANY, THE NAME AND ADDRESS OF THE
32 RESIDENT OF THIS STATE WHO IS LEGALLY AUTHORIZED TO RECEIVE NOTICE AND
33 SERVICE OF PROCESS ON BEHALF OF THE ENTITY AND THE NAME AND ADDRESS OF THE
34 POLITICAL COMMITTEE ON WHOSE BEHALF THE SIGNATURES ARE BEING COLLECTED.

35 B. THE SECRETARY OF STATE SHALL ESTABLISH A REGISTRATION FEE BY RULE
36 FOR PERSONS AND ENTITIES REQUIRED TO REGISTER PURSUANT TO THIS SECTION.

37 C. A PERSON OR ENTITY WHO VIOLATES THIS SECTION IS LIABLE FOR A CIVIL
38 PENALTY OF THREE TIMES THE AMOUNT PAID FOR COLLECTING SIGNATURES WITHOUT
39 REGISTRATION OR ONE THOUSAND DOLLARS, WHICHEVER IS GREATER.

1 Sec. 6. Section 19-121.01, Arizona Revised Statutes, as amended by
2 Laws 2008, chapter 244, section 3, is amended to read:

3 19-121.01. Secretary of state: removal of petition and
4 ineligible signatures: facsimile sheets: random
5 sample

6 A. Within twenty days, excluding Saturdays, Sundays and other legal
7 holidays, of the date of filing of an initiative or referendum petition and
8 issuance of the receipt, the secretary of state shall:

9 1. Remove the following:

10 (a) Those sheets not attached to a copy of the title and text of the
11 measure.

12 (b) The copy of the title and text from the remaining petition sheets.

13 (c) Those sheets not bearing the petition serial number in the lower
14 right-hand corner of each side.

15 (d) Those sheets containing a circulator's affidavit that is not
16 completed or signed.

17 (e) Those sheets on which the affidavit of the circulator is not
18 notarized, the notary's signature is missing, the notary's commission has
19 expired or the notary's seal is not affixed.

20 (f) Those sheets on which the signatures of the circulator or the
21 notary are dated earlier than the dates on which the electors signed the face
22 of the petition sheet.

23 2. After completing the steps in paragraph 1 of this subsection,
24 review each sheet to determine the county of the majority of the signers and
25 shall:

26 (a) Place a three or four letter abbreviation designating that county
27 in the upper right-hand corner of the face of the petition.

28 (b) Remove all signatures of those not in the county of the majority
29 on each sheet by marking an "SS" in red ink in the margin to the right of the
30 signature line.

31 (c) Cause all signature sheets to be grouped together by county of
32 registration of the majority of those signing and attach them to one or more
33 copies of the title and text of the measure. If the sheets are too bulky for
34 convenient grouping by the secretary of state in one volume by county, they
35 may be bound in two or more volumes with those in each volume attached to a
36 single printed copy of the measure. The remaining detached copies of the
37 title and text of the measure shall be delivered to the applicant.

38 3. After completing the steps in paragraph 2 of this subsection,
39 remove the following signatures that are not eligible for verification by
40 marking an "SS" in red ink in the margin to the right of the signature line:

41 (a) If the signature of the qualified elector is missing.

42 (b) If the residence address or the description of residence location
43 is missing.

44 (c) If the date on which the petitioner signed is missing.

1 (d) Signatures in excess of the fifteen signatures permitted per
2 petition.

3 (e) Signatures withdrawn pursuant to section ~~1-261~~ 19-113.

4 4. After the removal of petition sheets and signatures, count the
5 number of signatures for verification on the remaining petition sheets and
6 note that number in the upper right-hand corner of the face of each petition
7 sheet immediately above the county designation.

8 5. Number the remaining petition sheets that were not previously
9 removed and that contain signatures eligible for verification in consecutive
10 order on the front side of each petition sheet in the upper left-hand corner.

11 6. Count all remaining petition sheets and signatures not previously
12 removed and issue a receipt to the applicant of this total number eligible
13 for verification.

14 B. If the total number of signatures for verification as determined
15 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
16 constitutional minimum, the secretary of state, during the same twenty day
17 period provided in subsection A of this section, shall select, at random,
18 ~~five~~ TEN per cent of the total signatures eligible for verification by the
19 county recorders of the counties in which the persons signing the petition
20 claim to be qualified electors. The random sample of signatures to be
21 verified shall be drawn in such a manner that every signature eligible for
22 verification has an equal chance of being included in the sample. The random
23 sample produced shall identify each signature selected by petition page and
24 line number. The signatures selected shall be marked according to the
25 following procedure:

26 1. Using red ink, mark the selected signature by circling the line
27 number and drawing a line from the base of the circle extending into the left
28 margin.

29 2. If a signature line selected for the random sample is found to be
30 blank or was removed from the verification process pursuant to subsection A
31 of this section and is marked with an "SS", then the next line down, even if
32 that requires going to the next petition sheet in sequence, on which an
33 eligible signature appears shall be selected as a substitute if that line has
34 not already been selected for the random sample. If the next eligible line
35 is already being used in the random sample, the secretary of state shall
36 proceed back up the page from the signature line originally selected for the
37 random sample to the next previous signature line eligible for
38 verification. If that line is already being used in the random sample, the
39 secretary of state shall continue moving down the page or to the next page
40 from the line originally selected for the random sample and shall select the
41 next eligible signature as its substitute for the random sample. The
42 secretary of state shall use this process of alternately moving forward and
43 backward until a signature eligible for verification and not already included
44 in the random sample can be selected and substituted.

1 C. After the selection of the random sample and the marking of the
 2 signatures selected on the original petition sheets pursuant to subsection B
 3 of this section, the secretary of state shall reproduce a facsimile of the
 4 front of each signature sheet on which a signature included in the random
 5 sample appears. The secretary of state shall clearly identify those
 6 signatures marked for verification by color highlighting or other similar
 7 method and shall transmit by personal delivery or certified mail to each
 8 county recorder a facsimile sheet of each signature sheet on which a
 9 signature appears of any individual who claims to be a qualified elector of
 10 that county and whose signature was selected for verification as part of the
 11 random sample.

12 D. The secretary of state shall retain in custody all signature sheets
 13 removed pursuant to this section except as otherwise prescribed in this
 14 title.

15 Sec. 7. Repeal

16 Section 19-121.01, Arizona Revised Statutes, as amended by Laws 2008,
 17 chapter 273, section 27, is repealed.

18 Sec. 8. Section 19-124, Arizona Revised Statutes, is amended to read:

19 19-124. Arguments and analyses on measures; cost; submission at
 20 special election

21 A. The person filing an initiative petition may at the same time file
 22 with the secretary of state an argument advocating the measure or
 23 constitutional amendment proposed in the petition. Not later than
 24 ~~fifty-three days~~ JUNE 15 preceding the regular primary election a person may
 25 file with the secretary of state an argument advocating or opposing the
 26 measure or constitutional amendment proposed in the petition. Not later than
 27 ~~fifty-three days~~ JUNE 15 preceding the regular primary election a person may
 28 file with the secretary of state an argument advocating or opposing any
 29 measure with respect to which the referendum has been invoked, or any measure
 30 or constitutional amendment referred by the legislature. Each argument filed
 31 shall contain the original notarized signature of each person sponsoring
 32 it. If the argument is sponsored by an organization, it shall contain the
 33 notarized signature of two executive officers of the organization or if
 34 sponsored by a political committee it shall contain the notarized signature
 35 of the committee's chairman or treasurer. Payment of the deposit required by
 36 subsection D or reimbursement of the payor constitutes sponsorship of the
 37 argument for purposes of this subsection. The person or persons signing the
 38 argument shall identify themselves by giving their residence or post office
 39 address and a telephone number, which information shall not appear in the
 40 publicity pamphlet. Each argument filed pursuant to this subsection shall
 41 not exceed three hundred words in length.

42 B. Not later than sixty days preceding the regular primary election
 43 the legislative council, after providing reasonable opportunity for comments
 44 by all legislators, shall prepare and file with the secretary of state an
 45 impartial analysis of the provisions of each ballot proposal of a measure or

1 proposed amendment. The analysis shall include a description of the measure
2 and shall be written in clear and concise terms avoiding technical terms
3 wherever possible. The analysis may contain background information,
4 including the effect of the measure on existing law, or any legislative
5 enactment suspended by referendum, if the measure or referendum is approved
6 or rejected.

7 C. The analyses and arguments shall be included in the publicity
8 pamphlet immediately following the measure or amendment to which they
9 refer. Arguments in the affirmative shall be placed first in order, and
10 first among the affirmative or negative arguments shall be placed the
11 arguments filed by the person filing the initiative petition or the person
12 who introduced the measure or constitutional amendment referred. The
13 remaining affirmative and negative arguments shall be placed in the order in
14 which they were filed with the secretary of state.

15 D. The person filing an argument shall deposit with the secretary of
16 state, at the time of filing, an amount of money as prescribed by the
17 secretary of state for the purpose of offsetting a portion of the
18 proportionate cost of the purchase of the paper and the printing of the
19 argument. If the person filing an argument requests that the argument appear
20 in connection with more than one proposition, a deposit shall be made for
21 each placement requested. No such deposit or payment shall be required for
22 the analyses prepared and filed by the legislative council. Any proportional
23 balance remaining of the deposit, after paying the cost, shall be returned to
24 the depositor.

25 E. When a measure is submitted at a special election, and time will
26 not permit full compliance with this article, the charter provision or
27 ordinance providing for the special election shall make provision for
28 printing and distribution of the publicity pamphlet.

29 F. In the case of referendum petitions that are not required to be
30 filed until after the primary election or at a time so close to the primary
31 election that a referendum cannot be certified for the ballot before the
32 deadline for filing ballot arguments pursuant to subsection A, the secretary
33 of state may establish a separate deadline for filing the referendum ballot
34 arguments pursuant to rules adopted by the secretary of state.

35 Sec. 9. Conditional enactment

36 This act does not become effective unless the measure referred by HCR
37 _____, forty-ninth legislature, first regular session, relating to
38 initiative and referendum reform, is approved by vote of the people at the
39 next general election.